IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.822 OF 1989

The State of Maharashtra
through the SLAO, Metro
Centre No.XII(I), Panvel,
District Raigad. ... Appellant.

V/s.

Balu Joma Govari. ... Respondent

Mrs. G.P.Mulekar, AGP for Appellant

Coram: Smt.Nishita Mhatre, J.
Dated: 28th October, 2004.

ORAL JUDGMENT:

1. The only question involved in the present first appeal is whether the learned Civil Judge, Sr. Division, Raigad at Alibag was right in enhancing the compensation in respect of the acquired land.

2. The land of the respondent was acquired under notification issued under section 4 of the Land Acquisition Act on 3rd February, 1970. This notification covered land from Village Kamothe, Taluka-Panvel, District Raigad. The land was acquired for the New Bombay Project. The Special Land Acquisition Officer declared his award on 28th August, 1986 awarding compensation in respect of the acquired land at the rate of Rs.3/- per sq.mtr. Aggrieved by this award, the respondent preferred Reference under Section 18 of the Land Acquisition Act for enhancement

of the compensation in respect of the acquired land. By Judgment and Award dated 26th October, 1988, the Civil Judge, Senior Division, Raigad at Alibag has awarded compensation at the rate of Rs.15/- per sq.mtr. Interest at the rate of 9% per annum on the amount of Rs.2,12,602.75 has also been awarded from the date of the order till realisation of the whole amount.

3. The learned AGP takes exception to this Judgment and order by submitting that there was no reliable evidence to support the claim for enhancement of compensation made by the respondent. It is also submitted that there was no evidence establishing the fact there was any instance of sale in the vicinity showing that the rate of Rs.15/- per sq.mtr. was rightly awarded. It is also submitted by the learned AGP by relying on the Judgment in the case of **Tejumal Bhojwani V/s State of U.P. reported in 2003)10 S.C.C. 595** that development charges have not been deducted from the awarded amount.

4. On perusal of the impugned Judgment I find that the Reference court has considered the proximity of the suit land from the Bombay-Pune Highway and has also considered the fact that the neighbouring land was a at the rate of Rs.15/- per sq.mtr. In fact on 3rd February, 1970 lands in several villages of Panvel taluka and its surrounding villages viz. Kalamboli,

Kamothe, Asudgaon were notified for acquisition under section 4(1) of the Land Acquisition Act. The reference court has correctly assessed the land value and has also observed that in respect of the land from the same village, the amount of Rs.15/- per sq.mtr. has already been awarded. I see no reason to differ from these findings of the Court, especially since the value of the land @ Rs.15/- per sq.mtr.has been awarded in Land Reference No. 211 of 1986, 213 of 1986, 55 of 1987 and 56 of 1987. Apart from this, in First Appeal No.1058 of 1989, Division Bench of this Court (Gokhale and Vazifdar,JJ) has already upheld the award granting Rs.15/- per sq.meter in respect of lands acquired from Village Kamothe.

5. However, the submission made by the learned AGP in respect of the development charges must be accepted. In my view, deduction of Rs.1/- per square meter as development charges would be sufficient in the facts and circumstances of the case. A similar deduction has been made in First Appeal No.1058 of 1989.

6. First Appeal allowed partly to the aforesaid extent.

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE
FIRST APPEAL NO.822 OF 1989

Date of Decision : October 28, 2004

For Approval and Signature

The Hon'ble Smt. Justice NISHITA MHATRE

1. Whether Reporters of Local Papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgment?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any Order made thereunder?

5. Whether it is to be circulated to the Civil Judges?

6. Whether the case involves an important question of law and whether a copy of the judgment should be sent to Nagpur, Aurangabad & Goa offices?